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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DIAMOND, ALAN D

ART UNIT	PAPER NUMBER
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1753

DATE MAILED: 10/25/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/827,250

Applicant(s)

KLEINWACHTER, JURGEN

Examiner

Alan Diamond

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-10 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 2-4, 8-10 and 15-21 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Comments***

1. The 35 USC 102(b) rejection of Ebner et al has been overcome by applicant's cancellation of claim 11. Ebner et al's absorption unit (4) (i.e., instant energy conduit) can be positioned so as to be directly in the sunlight (see col. 5, lines 41-54). However, Ebner et al does not teach or suggest that its Fresnel lens panel (1) tracks the sun. Said Fresnel lens panel (1) is what corresponds to the instant translucent surface. Note that instant claims 9 and 10 require that the translucent surface(s) (not the energy conduit) tracks the sun uniaxially or biaxially. Ebner et al's Fresnel lens panel is stationary.
2. The 35 USC 102(b) and 35 USC 103(a) rejections over Johnson are now moot. With respect to claim 9, Johnson does not teach or suggest the additional translucent surface. With respect to claim 10, Johnson does not teach or suggest plural of its Fresnel scrolls for demarcating a living space.

### ***Specification***

3. The disclosure is objected to because of the following informalities: On page 11, at line 2, the word "is" should be changed to "be". On page 12, at the fourth line of paragraph [0043], the term "31are" should be changed to "31 are". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 10 and 15-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, at the last line, the comma should be changed to a period. The same applies to dependent claims 15-21.

In claim 15, at line 1, the word "surface" should be changed to "surfaces".

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 10, 15-17, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Palazzetti et al, U.S. Patent 4,280,853.

Palazzetti et al teaches a solar energy conversion unit comprising four Fresnel lenses (6) that make up an optical concentrator (5) (which reads on an instant translucent surface); and photovoltaic converter modules (7) which read on the instant energy conduit (see col. 1, line 59 through col. 2, line 66; and Figures 1-3). The photovoltaic converter (7) has a fluid line for liquid to pass through (see col. 3, lines 27-57). The Fresnel lenses allow the diffuse component of the solar energy to pass through, so that the use of an installation of the type shown in Figure 3 does not unacceptably reduce the light within the building (see col. 2, lines 45-50). Accordingly, it is the Examiner's position that the portion of light directed by the Fresnel lenses onto

the photovoltaic converter modules is the direct light perpendicular to the lenses, not the diffuse light. As seen in Figure 3, plural of the optical concentrators (5) demarcate a living space. Note that the optical concentrators track the movement of the sun, as here claimed (see col. 2, lines 9-20). In said Figure 3, the optical concentrators are located behind a glass wall (14), which reads on the protective surface in claim 21 (see col. 2, lines 30-44). Since Palazzetti et al teaches the limitations of the instant claims, the reference is deemed to be anticipatory.

***Claim Rejections - 35 USC § 103***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 2-4, 8-10, 15-17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palazzetti et al, U.S. Patent 4,280,853

Palazzetti et al teaches a solar energy conversion unit comprising four Fresnel lenses (6) that make up an optical concentrator (5) (which reads on an instant translucent surface); and photovoltaic converter modules (7) which read on the instant energy conduit (see col. 1, line 59 through col. 2, line 66; and Figures 1-3). The photovoltaic converter (7) has a fluid line for liquid to pass through (see col. 3, lines 27-57). The Fresnel lenses allow the diffuse component of the solar energy to pass through, so that the use of an installation of the type shown in Figure 3 does not unacceptably reduce the light within the building (see col. 2, lines 45-50). Accordingly, it is the Examiner's position that the portion of light directed by the Fresnel lenses onto the photovoltaic converter modules is the direct light perpendicular to the lenses, not the

diffuse light. As seen in Figure 3, plural of the optical concentrators (5) demarcate a living space. Note that the optical concentrators track the movement of the sun, as here claimed (see col. 2, lines 9-20). In said Figure 3, the optical concentrators are located behind a glass wall (14), which reads on the protective surface in claim 21 (see col. 2, lines 30-44). Palazzetti et al teaches the limitations of the instant claims other than the difference which is discussed below.

With respect to independent claim 9, Palazzetti et al does not specifically teach an additional translucent surface behind the converter modules (7). However, for example, it would have been well within the skill of an artisan to have made the building in Figure 3 symmetric so that an additional bank of conversion units is provided on the other side of the building behind another sloping glass wall (14). The converter modules (7) shown in Figure 3 would then be between the Fresnel lenses (6) in Figure 3 and said another sloping glass wall on the other side of the roof. Said other side of the roof corresponds to the portion of the roof not shown in Figure 3. Alternatively, it would have been well within the skill of an artisan to have made the entire roof (13) in Figure 3 from glass panels (not just the sloping section (14)). When such is the case the converter modules in Figure 3 would be between the Fresnel lenses (6) in Figure 3 and the glass panels on the other side of the roof. Said other side of the roof corresponds to the portion of the roof not shown in Figure 3. Alternatively, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed a glass panel beneath the bank of converters shown in Figure 3 so as to separate the converters from the inside of the building.

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***Allowable Subject Matter***

10. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 18-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 13 and 14 are allowed.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 4,290,416 and 6,407,328 B2 are hereby made of record.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Diamond whose telephone number is 703-308-0840. The examiner can normally be reached on Monday through Friday, 6:15 a.m. to 2:45 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on 703-308-3322. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Alan Diamond  
Primary Examiner  
Art Unit 1753

Alan Diamond  
October 23, 2002